

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

MICHAEL McQUEEN,

Plaintiff,

vs

9:08-CV-799

COUNTY OF ALBANY; THOMAS WIGGER,
Superintendent, Albany County Correctional
Facility; and CORRECTIONAL MEDICAL SERVICES,

Defendants.

APPEARANCES:

OF COUNSEL:

MICHAEL McQUEEN

Plaintiff, Pro Se

08-A-1494

Green Haven Correctional Facility

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KELLY MONROE, ESQ.

DAVID N. HURD

United States District Judge

DECISION and ORDER

Plaintiff, Michael McQueen, brought this civil rights action in July 2008, pursuant to 42 U.S.C. § 1983. By Report-Recommendation dated December 22, 2009, the Honorable David E. Peebles, United States Magistrate Judge, recommended that defendants' motions for summary judgment (Docket Nos. 19 and 22) be granted in relevant part, and that all of plaintiff's claims against defendants be dismissed, with prejudice with respect to plaintiff's federal claims, but without prejudice to his right to assert any pendent state law claims in an appropriate state court. The plaintiff has filed objections to the Report-Recommendation. Defendants County of Albany and Thomas Wigger have filed a response to the plaintiff's objections to the Report/Recommendation claiming, among other things, that the objections were filed untimely. Defendant Correctional Medical Services has filed a response to the plaintiff's objections to the Report/Recommendation also claiming, among other things, that the objections were filed untimely.

Based upon a de novo review of the portions of the Report-Recommendation to which the plaintiff has objected and to which the defendants have filed responses, the Report-Recommendation is accepted and adopted in all respects. See 28 U.S.C. 636(b)(1).

Accordingly, it is

ORDERED that


1. Defendants' motions for summary judgment (Docket Nos. 19 and 22) are GRANTED, in relevant part;

2. All of plaintiff's claims against defendants are DISMISSED, with prejudice with respect to his federal claims, but without prejudice to his right to assert any pendent state law claims in an appropriate state court;

3. The Clerk is directed to file judgment accordingly and close the file.

IT IS SO ORDERED.

Dated: January 28, 2010
Utica, New York.


United States District Judge